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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,289	03/31/2000	Mitsuhiro Agehari	P/2041-47	9847

7590 11/16/2004  
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NEW YORK, NY 10036-2714

EXAMINER

TRAN, KHANH C

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/540,289

Applicant(s)

AGEHARI, MITSUHIRO

Examiner

Khanh Tran

Art Unit

2631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 3.

Claim(s) rejected: 1, 2 and 4.

Claim(s) withdrawn from consideration: \_\_\_\_\_.


8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

TESFA/DET/BOC  
PRIMARY EXAMINER

Continuation of 2. NOTE: In response to the Applicant's argument on pages 5-6 of the Remarks/Argument that Van Nee invention does not teach a single clock is used without varying the clock signal as claimed in claim 1.

In making the rejection of claim 1 being obvious in view of Van Nee (US 6,175,550 B1), the claimed preamble has been given patentable weight. As stated in the final rejection and is repeated here, applicant argues Van Nee invention differs from claim 1 because the patent application, as defined in claim 1, utilizes "a single clock signal without the necessity of varying the internal clock signal".

On the contrary of Applicant's assertions, Van Nee teachings clearly address the claimed language. Claim 1 preamble calls for "a multi-rate transmission apparatus in which a coding ratio is varied in accordance with an input modulation operation mode to allow a transmission operation with a single input clock signal in accordance with the input modulation mode ...". Figure 1 of Van Nee invention illustrates an OFDM transmitter in which a single input clock signal from the clock 17, as claimed, is provided in accordance of each combination of coding and modulation scheme. The claimed limitations "a single clock signal without the necessity of varying the internal clock signal" have not been claimed in the claimed language. In light of the foregoing reasons, the rejection of claims 1-2 and 4 still stands on the same ground as stated in the Final Office action.



TESFAYE W. ABATE  
PRIMARY EXAMINER